

DALEVIEW CARE CENTER

CODE OF CONDUCT

A. INTRODUCTION

The Governing Body of Daleview Care Center has developed and implemented the following Code of Conduct. The Code of Conduct is applicable to Facility and its Employees and Agents. This Code of Conduct contains standards articulating the general policies of Facility, as adopted by its Governing Body. This document shall be distributed at least annually, and periodically as necessary, to a representative of the Governing Body, Employees and Agents. All employees must attend an annual Compliance Program inservice as part of their employment at the Facility. The Governing Body, Employees and Agents are responsible for ensuring that their behavior and activity is consistent with the standards embodied in this Code of Conduct.

The Facility takes health care fraud very seriously and is committed to its role in preventing health care fraud and abuse and to complying with all applicable state and federal law/s related to healthcare fraud and abuse. The Deficit Reduction Act of 2005 (DRA) requires information about the federal False Claims Act and other laws, including state laws, dealing with fraud, waste, and abuse and whistleblower protection for the legitimate reporting of these issues. As a component of the Facility Compliance Program, the Facility has developed and instituted policies and procedures to detect and prevent fraud, waste, and abuse, and supports the efforts of both the federal and state authorities in identifying incidents of fraud and abuse. The policies set forth in the Facility's Compliance Program include avenues for reporting concerns internally, and an overview of the Federal Civil False Claims and Program Fraud Civil Remedies Act and other applicable state laws.

In connection with the establishment of the Facility's Compliance Program, the Governing Body has designated the Administrator to act as the Facility's Compliance Officer. The Compliance Officer is generally responsible for the day-to-day oversight, operation and organization of the Facility's Compliance Program in conjunction with the DNS and all Department Heads. The responsibilities of the Compliance Officer are more fully explained in the Facility's compliance manual.

B. LEGAL AND REGULATORY COMPLIANCE

Daleview Care Center, it's Employees and Agents are expected to constantly strive to ensure that all activity by or on behalf of the Facility is in compliance with applicable federal, state, local laws, rules, regulations, ordinances, administrative directives and any other binding governmental directives (hereinafter "Laws and Regulations"). The general policies articulated in this Code of Conduct are intended to provide guidance to individuals in their obligation to comply with applicable Laws and Regulations. However, the general policies contained herein are neither exclusive nor complete. Employees and Agents are expected to refer to the facility's compliance

standards, policies and procedures, as well as other relevant Laws and Regulations for further guidance. It is important for all Employees and Agents to recognize that they are required to comply with all applicable Laws and Regulations, as well as the Facility's compliance standards, policies and procedures whether or not specifically addressed in this Code of Conduct. If questions arise regarding the existence, interpretation or application of any law, regulation, rule, standard, policy and/or procedure, they should be directed to the Compliance Officer.

C. FRAUD AND ABUSE

The Facility expects its Employees and Agents to refrain from any conduct that may violate applicable federal and state Laws and Regulations, with special emphasis on those related to fraud and/or abuse.

These laws generally prohibit: (1) the transfer of anything of value in order to induce the referral of residents or any government program business (i.e. Medicare, Medicaid and other federal or state health care programs); (2) the making of false representations or the submission of false, fraudulent or misleading claims to any government entity or third party payor, including claims for services not rendered, claims which characterize the service differently than the service actually rendered, or claims that do not otherwise comply with applicable program or contractual requirements; and (3) referring Facility business to an entity in which the Employee or Agent has a financial interest.

D. ROLE OF FEDERAL AND STATE LAWS IN PREVENTING FRAUD, WASTE, AND ABUSE

The Centers for Medicare & Medicaid Services (CMS) defines "fraud" as the intentional deception or misrepresentation that an individual knows to be false (or does not believe to be true), knowing that the deception could result in an unauthorized benefit to himself or another person. CMS defines "abuse" as incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or are not medically unnecessary.

The Federal Government and the State of New York have enacted criminal and civil laws pertaining to the submission of false or fraudulent claims for payment or approval to the federal and state governments and to private payors. These false claims laws, which provide for criminal, civil, and administrative penalties, provide governmental authorities with broad authority to investigate and prosecute potentially fraudulent activities, and also provide anti-retaliation provisions for individuals who make good faith reports of waste, fraud, and abuse. These laws play a significant role in all government efforts to reduce waste, fraud and abuse.

The Federal Civil False Claims and Program Fraud Civil Remedies Acts, applicable State laws, and anti-retaliation provisions are summarized in the following sections.

1. Federal Civil False Claims Act

The Civil False Claims Act (31 U.S.C. § 3729 et seq.) (“FCA”) is a statute that imposes civil liability on any person who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval,
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid,
- Uses a false record or statement to avoid or decrease an obligation to pay the Government, and
- Other fraudulent acts enumerated in the statute.

The term “knowingly” as defined in the FCA includes a person who has actual knowledge of the information, and acts in deliberate ignorance of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term “claim” includes any request or demand for money or property if the United States Government provides any portion of the money requested or demanded.

Potential civil liability under the FCA currently includes penalties of between five thousand five hundred and eleven thousand per claim, treble damages, and the costs of any civil action brought to recovery such penalties or damages.

The Attorney General of the United States is required to diligently investigate violations of the FCA, and may bring a civil action against a person. Before filing suit the Attorney General may issue a demand requiring production of documents and written answers and oral testimony.

The FCA also provides for Actions by Private Persons (qui tam lawsuits) who can bring a civil action in the name of the United States Government (“Government”) for a violation of the Act. Generally, the action may not be brought more than six years after the violation, but in no event more than ten. When the action is filed in the name of the Government, it remains under seal for at least sixty days. The Government may choose to intervene in the lawsuit and assume primary responsibility for prosecuting, dismissing or settling the action. If the Government chooses not to intervene, the private party who initiated the lawsuit has the right to conduct the action.

In the event the government proceeds with the lawsuit, the qui tam plaintiff may receive fifteen to twenty-five percent of the proceeds of the action or settlement. If the qui tam plaintiff proceeds with the action without the Government, the plaintiff may receive twenty-five to thirty percent of the recovery. In either case, the plaintiff may also receive an amount for reasonable expenses plus reasonable attorneys' fees and costs.

If the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the plaintiff may have to pay the defendant its fees and costs. If the plaintiff planned or initiated the violation, the share of proceeds may be reduced and, if found guilty of a crime associated with the violation, no share will be awarded the plaintiff.

Whistleblower Protection. The FCA also provides for protection for employees from retaliation. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of any action under the FCA may bring an action in Federal District Court seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages, and fees.

2. Federal Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act of 1986 ("Administrative Remedies for False Claims and Statements" at 38 U.S.C. § 3801 et seq.) is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term "knows or has reason to know" is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term "claim" includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

The authority, i.e., federal department, may investigate and with the Attorney General's approval commence proceedings if the claim is less than one hundred and fifty thousand dollars. A hearing must begin within six years from the submission of the claim. The law allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

3. New York Law Regarding False Claims:

Section 145-b of the New York Social Services Law makes it unlawful for any person to knowingly by means of a false representation, statement or other fraudulent scheme or device, obtain or attempt to obtain payment (including by means of false representations or material omissions in an acknowledgement, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment, in a cost report or otherwise) from the state (or public funds) for services or supplies furnished or purportedly furnished. Liability under the law includes repayment of funds improperly paid and monetary penalties of no more than \$2000 for each item or service or, where a penalty under this section has been imposed on any person within the previous 5 years, \$7,500 for each item or service. In addition, the State has the right to recover civil damages equal to three (3) times the amount by which any figure is falsely overstated, or in the case of nonmonetary false statements or representations, three (3) times the amount of damages which the state sustained as a result of the violation or \$5,000, whichever is greater.

New York Health Care Fraud Laws:

Article 177 of the New York State Penal Law (the “Health Care Fraud” Laws) makes it a crime for any person to, with the intent to defraud any publicly or privately funded health insurance or managed care plan, including the Medicaid program, knowingly and willfully provide materially false information or omit material information, on one or more occasions, for the purpose of requesting payment for a health care item or service when such person, or any other person, receives payment as a result of such information or omission. Violations may be subject to fines, imprisonment, or both.

Section 366-b of the New York Social Services Law makes it a crime for any person to, with intent to defraud, present for allowance or payment any false or fraudulent claim for furnishing services or supplies, or knowingly submit false information for the purpose of obtaining greater compensation than that to which he is legally entitled, or knowingly submit false information for the purpose of obtaining authorization for furnishing services or supplies under the medical assistance program.

Examples of a possible false claim

1. Making false statements regarding a claim for payment;
2. Falsifying information in the medical record;
3. Double-billing for items or services;
4. Billing for services or items not performed or never furnished.

Reporting Possible False Claims

1. If an employee discovers an event that is like one of the examples of a false claim above, an employee is encouraged to immediately report it to the Facility Administrator/Compliance Officer for further investigation.

2. An employee is not required to report a possible FCA violation to the Facility first. A report may be made directly to the Department of Justice or applicable state authorities. However, in many instances the Facility believes that the use of its internal reporting process is a better option because it allows the Facility to quickly address potential issues. The Facility encourages employees to consider first reporting suspected false claims to the Facility Administrator but the choice is up to the employee.
3. The Facility will not retaliate against any employee for informing the Facility or the federal or state government of a possible FCA violation or violation of other Laws and Regulations.

An employee or agent with questions regarding this policy should contact the Administrator/Compliance Officer at 516-694-9800, ext. 213.

E. QUALITY OF CARE AND RESIDENT RIGHTS

The Facility expects its Employees and Agents to ensure the Facility's provision of quality care to its residents in accordance with the expectations and requirements of applicable Laws and Regulations. In that regard, all Employees and Agents are required to participate and cooperate in the Facility's efforts to provide necessary care and services to residents in order to attain or maintain the highest practicable physical, mental and psychosocial well-being of each of the Facility's residents in accordance with a resident's comprehensive assessment and plan of care, subject to the resident's right of self-determination.

Additionally, the Facility expects its Employees and Agents to ensure that all residents are afforded their right to a dignified existence, self-determination, respect, full recognition of their individuality, consideration and privacy in treatment and care for personal needs and communication with and access to persons and services inside and outside the Facility. The Facility expects its Employees and Agents to ensure the protection and promotion of the rights of each resident, and to encourage and assist each Resident in the fullest possible exercise of their rights as set forth in applicable Laws and Regulations.

F. BUSINESS ETHICS

The Facility has an established commitment to the highest standards of business ethics and integrity, and as such Employees and Agents are expected to accurately and honestly represent the Facility and not engage in any activity or scheme intended to defraud any person or entity, of money, property or services. All conduct by Employees and Agents must be consistent with all Facility compliance standards, policies, procedures, applicable Law and Regulation, professional standards, as well as exhibit the highest possible standard of ethics and honesty.

G. HONEST COMMUNICATION

The Facility requires candor and honesty from all Employees and Agents in performing their responsibilities and in communication with Facility attorneys and auditors, as well as federal and state officials.

H. CONFIDENTIALITY

Facility Employees and Agents shall maintain the confidentiality of Resident medical records and information, as well as other confidential information in accordance with applicable Laws and Regulations, accreditation standards where applicable, and ethical and professional standards. The Facility and its Employees and Agents are in possession of, and have access to, a broad variety of confidential, sensitive and proprietary information, the inappropriate release of which could be injurious to individuals, the Facility's business partners and the Facility itself. Employees and agents are expected to actively protect and safeguard confidential, sensitive and proprietary information in a manner designed to prevent the unauthorized disclosure of such information.

I. CONFLICTS OF INTEREST

The Facility expects its Employees and Agents to commit their undivided and unqualified loyalty to the facilities' interests. Employees and Agents may not use their positions to profit personally or to assist others in profiting in any way at the expense of the Facility.

All Employees and Agents are expected to regulate their activities so as to avoid actual impropriety and/or the appearance of impropriety which might arise from the influence of those activities on business decisions of the Facility, or from disclosure or private use of business affairs or plans of the Facility.

J. BUSINESS RELATIONSHIPS

Business transactions with vendors, contractors and other third parties shall be transacted free from offers or solicitation of gifts, favors or other improper inducements in exchange for influence or assistance in a transaction or the referral of business. If there is any doubt or concern about whether specific conduct or activities are ethical or otherwise appropriate, the Compliance Officer should be contacted.

K. REIMBURSEMENT

The Facility, its Employees and Agents shall take great care to ensure that all claims for reimbursement to government and to private insurance payors reflect truth and accuracy and conform to all pertinent Laws and Regulations. Employees and Agents are prohibited from knowingly presenting or causing to be presented claims for payment or approval which are false, fictitious, fraudulent or otherwise not in compliance with applicable Laws and Regulations.

L. EMPLOYEES AND ASSOCIATED PROVIDERS

The Facility, its Employees and Agents shall take great care to ensure that all Employees and Agents are provided with an equal opportunity work environment free of legally prohibited discrimination, workplace harassment, violence and substance abuse in compliance with all pertinent Laws and Regulations. Additionally, Employees and Agents are required to ensure that, where applicable, they maintain appropriate licensure and certification in their professional fields in accordance with Facility policies on providing proper care to its residents and all pertinent Laws and Regulations.

M. CODE OF CONDUCT VIOLATIONS, REPORTING AND CORRECTIVE ACTION

The Facility requires all Employees and Agents to follow the Compliance Program and standards, its policies and procedures and all applicable Laws and Regulations. In meeting those expectations, the Facility has a reporting and corrective action process for perceived and actual violations of the Compliance Program, Facility policies and procedures, and all applicable Laws and Regulations.

The Facility is committed to effectively monitor its overall compliance with applicable Laws and Regulations. The Compliance Officer or his/her designee will routinely conduct internal audits of issues that have regulatory or compliance implications. The Facility also routinely seeks the advice of counsel or independent consultants and auditors as a means of ensuring and demonstrating compliance with Laws and Regulations and the Facility's standards and policies.

Employees and Agents are expected to conduct themselves in an ethical and legal manner. Each Employee and Agent has an individual responsibility for reporting any activity that appears to violate applicable Laws and Regulations, this Code of Conduct, or any of the Facility's standards, policies or procedures. All such reports shall be made directly to the Employee's or Agent's direct supervisor or to the Compliance Officer. The Facility will make efforts to maintain the confidentiality of the identity of any individual who reports perceived or actual violations. However, confidentiality of identity cannot be guaranteed in certain circumstances.

The Facility will investigate all reported concerns promptly and confidentially to the extent possible. The Compliance Officer and Compliance Committee will coordinate findings from the investigations and immediately recommend corrective action or changes that need to be made to the QAPI Committee. Each Employee and Agent is expected to cooperate to the fullest extent possible with compliance investigation efforts.

When an internal investigation substantiates a reported violation, including those violations that concern the FCA and other specific laws described herein, it is the policy of the Facility to initiate corrective action, including, as appropriate, making prompt restitution of overpayment amounts, notifying the appropriate governmental agency,

instituting whatever disciplinary action is necessary, and implementing systemic changes to prevent a similar violation from recurring in the future.

N. ADMINISTRATION AND APPLICATION OF THIS CODE OF CONDUCT

The Facility expects each person to whom this Code of Conduct applies, to abide by the principles set forth herein and to conduct the business and affairs of the Facility in a manner consistent with the general policies set forth herein.

Failure to abide by this Code of Conduct and/or the Facility's compliance standards, policies and procedures may lead to significant and severe disciplinary action depending on the nature and scope of the individual failure. When investigating perceived or actual violations of the Code of Conduct and/or the Facility's compliance standards, policies and procedures, the Compliance Officer will review relevant facts and circumstances, including, but not limited to, the extent to which the behavior was contrary to the express language or general intent of the Code of Conduct, and/or the Facility's standards, policies and procedures, the egregiousness of the behavior, the Employee's or Agent's history with the organization, and other factors which the Compliance Officer deems relevant. Discipline for failure to abide by the Code of Conduct standards, policies and procedures and/or applicable Law and Regulations may, in the Facility's discretion, range from a warning to termination. In the event that an Employee is covered by the terms of a collective bargaining agreement, discipline shall be in accordance with the provisions of the collective bargaining agreement.

Nothing in this Code of Conduct is intended to, nor shall be construed as providing any additional employment or contractual rights to Employees, Agents or other persons.

While the Facility will generally attempt to communicate changes prior to the implementation of such changes, the Facility reserves the right to modify, amend or alter the Code of Conduct, Facility standards, and policies and procedures without prior notice to any person, Employee or Agent.